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RESOLUTION NO.

**RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF MILPITAS
DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY
REQUIRE THE ACQUISITION OF CERTAIN LAND AND DIRECTING
THE FILING OF EMINENT DOMAIN PROCEEDINGS
NORTH MAIN STREET DEVELOPMENT PROJECT**

APNs 028-24-014, 015, 020, 026

IT IS RESOLVED by the Redevelopment Agency of the City of Milpitas ("Agency") as follows:

WHEREAS, it is desirable and necessary for the Agency to acquire certain real property and interests in real property for the North Main Street Development Project; and

WHEREAS, an Environmental Impact Report was done for the Project; and

WHEREAS, legal descriptions of the property interests to be acquired are attached collectively hereto as Exhibits A and B, including maps depicting the areas to be acquired and diagrams showing the general location and extent of the property to be acquired; and

WHEREAS, the Agency is vested with the power of eminent domain to acquire real property for this Project by virtue of Article I, Section 19, of the Constitution of the State of California; California Health and Safety Code Section 33391; and Code of Civil Procedure Sections 1240.010, 1240.020, 1240.030, 1240.040, 1240.050, 1240.110, 1240.120, and 1240.610.

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to all persons whose property is to be acquired by eminent domain and whose names and addresses appear on the last County of Santa Clara equalized assessment roll, all of whom have been given a reasonable opportunity to appear and be heard before the Agency on the following matters:

- (a) Whether the public interest and necessity require the Project;
- (b) Whether the Project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- (c) Whether the property sought to be acquired is necessary for the Project; and
- (d) Whether the offer required by Government Code Section 7267.2 has been made to the owner(s) of record.

NOW, THEREFORE, IT IS FOUND, DETERMINED, AND ORDERED as follows:

1. The public interest and necessity require the Redevelopment Agency of the City of Milpitas to implement the objectives of the North Main Street Development Project;
2. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;
3. The taking of the interests in and to the real property more particularly described in Exhibits A and B are necessary for the Project;
4. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner or owners of record of the real property;
5. The law firm of Meyers, Nave, Riback, Silver & Wilson is hereby authorized and directed to institute and conduct to conclusion an action in eminent domain for the acquisition of the estates and interests aforesaid and to take such action as it may deem advisable or necessary in connection therewith; and
6. An order for prejudgment possession may be obtained in said action and a warrant issued to the State Treasury Condemnation Fund, in the amount determined by the Court to be so deposited, as a condition to the right of immediate possession.

[Remainder intentionally left blank.]

Introduced by Council Member _____ and passed and adopted
this _____, day of June 2005, by the following vote:

AYES:

NOES:

ABSENT:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

By _____
Steven T. Mattas
City Attorney

758375

LEGAL DESCRIPTION

Real property in the City of Milpitas, County of Santa Clara, State of California, described as follows:

PARCEL ONE:

COMMENCING at a point in the Westerly line of what is now known as the Old San Jose-Oakland Road, said point being 120.00 feet Westerly from the Central Pacific Railroad tracks, and being also at the Southeast corner of lands of the Milpitas School District, known as the School Lot; running thence Southwesterly along the Southern boundary of said School Lot 90.00 feet; thence Southeasterly and parallel with the Southwesterly line of the Old San Jose-Oakland Road, 121.00 feet; thence Northeasterly and parallel with the Southeasterly line of said above mentioned School Lot 90.00 feet to the Southwesterly line of the Old San Jose-Oakland Road; thence Northwesterly along the Southwesterly line of said road 121.00 feet to the point of commencement.

PARCEL TWO:

COMMENCING at a point on the Easterly line of the State Highway running through the Town of Milpitas, known as the San Jose-Oakland Road, and at the intersection thereof with the Southerly line of land of the Milpitas School District known as the School Lot; running thence Southerly along the Easterly line of said Highway 121 feet to the Northerly boundary of lands of Dutra, formerly Wigmore; thence running Easterly along the Northerly boundary of lands of Dutra 90 feet to a point distant on said boundary line 90 feet Westerly from the Westerly line of the Old County Road leading from San Jose to San Jose Mission; running thence Northerly and parallel to the Westerly line of the Old County Road and also parallel to the Easterly line of said Highway 121 feet to the Southerly boundary line of the School Lot; thence Westerly along the Southerly line of the School Lot, 90 feet to the point of commencement.

PARCEL THREE:

Bounded on the North and West by the County Road leading from San Jose to the Mission San Jose, on the East by lands now or formerly of Western Pacific Railroad Company, on the South by lands now or formerly of Manuel E. Pedro and Manuel S. Goularte, being more particularly described as follows, to wit:

Beginning at the point of intersection of the Northerly line of land now or formerly of Manuel E. Pedro and Manuel S. Goularte, with the Westerly line of the right of way and lands now or formerly of the Western Pacific Railroad Company, from which point of beginning the point of intersection of the said Westerly line of lands of the said Western Pacific Railroad Company and the Northerly line of the County Road leading from the Town of Milpitas to the Calaveras Valley bears South, Eleven (11) degrees forty (40) minutes, East Two hundred and two and no one-hundredths (202.00) feet distant; running thence along the said Westerly line of said lands of the Western Pacific Railroad Company, North Eleven (11) degrees forty (40) minutes West Six Hundred forty-five and eighty one-hundredths (645.80) feet to the point of intersection of the Southeasterly line of the County Road leading from San Jose to the Mission of San Jose; thence along the Southeasterly and Easterly line of the said Road with the following courses and distances: South Eighteen (18) degrees forty (40) minutes West Fifty-nine and Forty one-hundredths (59.40) feet and South Eleven (11) degrees forty (40) minutes East Five hundred

ninety-four and Thirty one-hundredths (594.30) feet to the Northwesterly corner of said land now or formerly of Manuel E. Pedro and Manuel S. Goularte; thence along the Northerly line of said land of said Manuel E. Pedro and Manuel S. Goularte, North Seventy-four (74) degrees Twenty-four (24) minutes East Twenty-eight and no one-hundredths (28.00) feet to the point of beginning, and being a part of the original Weller Trust in the Tularcitos Rancho.

EXCEPTING THEREFROM all that portion thereof conveyed to the City of Milpitas, by Grant Deeds recorded April 4, 1968 as Book 8078, page 307; Book 8078, page 310; and April 15, 1968 as Book 8089, page 61, all of Official Records, described as follows:

BEGINNING at the point of intersection of the Northerly line of land now or formerly of Manuel E. Pedro and Manuel S. Goularte with the Westerly line of the right-of-way and lands of the Southern Pacific Railroad Company, from which point of beginning the point of intersection of the said Westerly line of lands of said Southern Pacific Railroad Company and the Northerly line of the road leading from the Town of Milpitas to the Calaveras Valley bears South 10° 33' 25" East 202.00 feet, the coordinates of said point of beginning being y=342,200.48 feet; x=1,592,055.71 feet, said coordinates based on the California Coordinate System: Zone 3, as are all coordinates and bearings in this description, but the distances are ground distances;

Thence North 10° 33' 25" W. 17.63 feet to the true point of beginning, the coordinates of said point being y=342,217.81; x=1,592,052.48. Thence North 10° 33' 25" W. 123.01 feet along the Westerly line of said Southern Pacific Railroad Company; Thence South 78° 13' 25" West 27.62 feet to the Southeasterly line of Winsor Street which street was the former road leading from San Jose to the Mission of San Jose; Thence South 10° 36' 10" East 126.06 feet; Thence North 78° 06' 49" East 27.52 feet to the true point of beginning.

ALSO EXCEPTING THEREFROM all that portion thereof described in the Gift Deed recorded December 10, 1969 as Book 8765, page 574, of Official Records, more particularly described as follows:

BEGINNING at a point in the Easterly line of Winsor Street, at the Northwesterly corner of that certain tract of land described in the Deed from George Mancino, et ux, to George B. Winsor, et ux, dated September 6, 1955, recorded September 7, 1955 in Book 3273 Official Records, page 161, Santa Clara County Records; thence from said point of beginning North 10° 36' 10" West along said Easterly line of Winsor Street for a distance of 18.89 feet to the Southwesterly corner of that certain 0.079 acre tract of land described in the Deed from Dorothy A. Winsor to the City of Milpitas, a municipal corporation, dated April 8, 1968, recorded April 15, 1968 in Book 8089 Official Records, page 61, Santa Clara County Records; thence North 78° 06' 49" East along the Southerly line of said 0.079 acre tract for a distance of 27.52 feet to the Southeasterly corner thereof in the Westerly line of lands and right-of-way of the Southern Pacific Railroad Company; thence South 10° 33' 25" East along the said Westerly line of lands and right-of-way of the Southern Pacific Railroad Company for a distance of 17.63 feet to the Northeasterly corner of land so described in the Deed to said Winsor above referred to; thence South 75° 30' 05" West along the Northerly line of land so described in the Deed to said Winsor for a distance of 27.56 feet to the point of beginning.

PARCEL FOUR:

BEGINNING at a point on the Westerly line of the lands and right of way of the Southern Pacific Railroad Company, at the Easternmost corner of that certain 1.57 acre tract of land described in the Deed from Standard Oil Company of California, a Delaware corporation, to Erwin A. Luttermoser, dated July 28, 1954, recorded September 7, 1954 in Book 2953 Official Records,

page 161, Santa Clara County Records; thence from said point of beginning, South $11^{\circ} 40'$ East along said Southwesterly line 60.00 feet to the Northernmost corner of that certain 0.389 acre tract of land described in the Deed from Spreckles Sugar Company, a California corporation to Thomas Winsor, et al, dated January 21, 1936, recorded January 28, 1936 in Book 755 Official Records, page 494, Santa Clara County Records; thence South $18^{\circ} 40'$ West along the Northwesterly line of said 0.389 acre tract 59.40 feet to an angle point therein; thence North $11^{\circ} 40'$ West along the Northwesterly prolongation of the Southwesterly line of said 0.389 acre tract 111.50 feet to the point of intersection of said prolongation with a Southeasterly line of said 1.57 acre tract above referred to; thence Northeasterly along said last named line 29 feet, more or less, to the point of beginning, and being a portion of the Tularcitos Rancho.

EXCEPTING THEREFROM so much thereof as described in the Quitclaim Deed from County of Santa Clara, State of California to City of Milpitas, dated October 20, 1958 and recorded December 10, 1958 in Book 4255 Official Records, page 455, as follows:

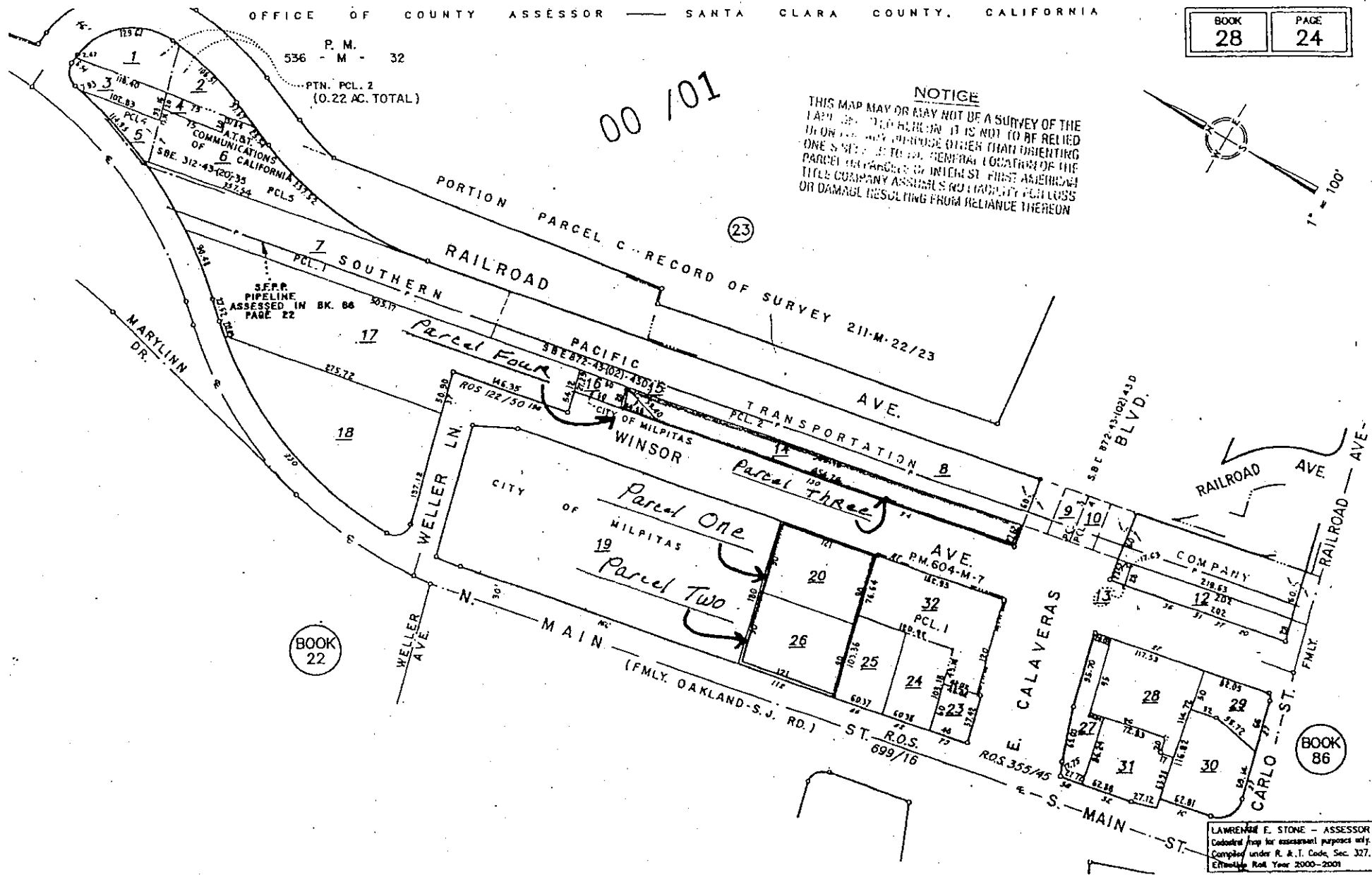
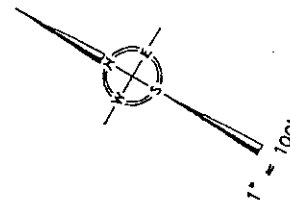
BEGINNING at a point on the Westerly line of the lands and right of way of the Southern Pacific Railroad Company, at the Easternmost corner of that certain 1.57 acre tract of land described in the Deed from Standard Oil Company, to Erwin A. Luttermoser, dated July 28, 1954, recorded September 7, 1954 in Book 2953 Official Records, page 161, Santa Clara County Records; thence from that point of beginning, South $11^{\circ} 40'$ East ($168^{\circ} 20'$ true) along said Southwesterly line 60 feet to the Northernmost corner of that certain 0.389 acre tract of land described in the Deed from Spreckles Sugar Company, a California corporation, to Thomas Winsor, et al, dated January 28, 1936 in Book 755 Official Records, page 494, Santa Clara County Records; thence South $74^{\circ} 51' 50''$ West ($254^{\circ} 51' 50''$ true) 28 feet more or less to a point on the Northwesterly prolongation of the Southwesterly line of said 0.389 acre tract; thence North $11^{\circ} 40'$ West ($168^{\circ} 20'$ true) along the Northwesterly prolongation of the Southwesterly line of said 0.389 acre tract 60 feet to the point of intersection with a Southeasterly line of said 1.57 acre tract above referred to; thence Northeasterly along said last named line 29 feet more or less, to the point of beginning, and being a portion of the Tularcitos Rancho.

APN: 028-24-014, 015, 020 and 026

ARB: 027-03-8, 9, 11 and 23

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NOTICE
THIS MAP MAY OR MAY NOT BE A SURVEY OF THE LAND. IT IS NOT TO BE RELIED UPON FOR ANY PURPOSE OTHER THAN ORIENTING ONE'S SELF TO THE GENERAL LOCATION OF THE PARCEL OR PARCELS OF WHICH IT FIRST APPEARED. TITLE COMPANY ASSUMES NO LIABILITY FOR LOSS OR DAMAGE RESULTING FROM RELIANCE THEREON.



BOOK
22

BOOK
86

LAWRENCE E. STONE - ASSESSOR
Cadastral map for assessment purposes only.
Compiled under R. & T. Code, Sec. 327.
Effective Roll Year 2000-2001